

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK

RICHARD M. GREENE, Plaintiff,

-V-

9:11-CV-792 (NAM/DEP)

T. NAPOLI, Defendant.

APPEARANCES:

Richard M. Greene
10-A-4555
Cayuga Correctional Facility
P.O. Box 1186
Moravia, New York 13118
Plaintiff, *pro se*

Hon. Eric T. Schneiderman, Attorney General of the State of New York
Roger W. Kinsey, Esq., Assistant New York State Attorney
The Capitol
Albany, New York 12224
Attorney for Defendant

Hon. Norman A. Mordue, U.S. District Judge:

MEMORANDUM-DECISION AND ORDER

In the sole remaining claim in this *pro se* action under 42 U.S.C. § 1983, plaintiff, an inmate in the custody of New York Department of Corrections and Community Services, claims that defendant unlawfully intercepted and monitored his outgoing mail in violation of his constitutional rights. Defendant moves (Dkt. No. 27) for summary judgment dismissing the claim. Upon referral pursuant to 28 U.S.C. § 636(b)(1)(B) and Local Rule 72.3(c), United States Magistrate Judge David E. Peebles issued a Report and Recommendation recommending summary judgment dismissing the action. Magistrate Judge Peebles further recommends that plaintiff's motion (Dkt. No. 35) for interim injunctive relief be denied. Plaintiff objects (Dkt. No.

49); accordingly, the Court reviews the matter *de novo*. 28 U.S.C. § 636(b)(1)(C).

The Report and Recommendation ably sets forth the facts, procedural background, and applicable law. The Court adopts them and does not repeat them here. The Court agrees with Magistrate Judge Peebles that the record establishes as a matter of law that the monitoring of plaintiff's incoming and outgoing mail, and the interception of a letter he wrote to his mother in furtherance of a scheme to file fraudulent liens, was proper and related to a legitimate penological concern over detecting illegal conduct. The Court further agrees with Magistrate Judge Peebles that defendant is entitled to qualified immunity in connection with his actions. Accordingly, summary judgment is granted dismissing plaintiff's claims. Plaintiff's motion for interim injunctive relief is denied.

It is therefore

ORDERED that the Report and Recommendation (Dkt. No. 46) of United States
Magistrate Judge David E. Peebles is adopted and accepted; and it is further

ORDERED that defendant's motion (Dkt. No. 27) for summary judgment is granted and the complaint is dismissed with prejudice; and it is further

ORDERED that plaintiff's motion (Dkt. No. 35) for interim relief is denied; and it is further

ORDERED that the Clerk of the Court is directed to serve copies of this Memorandum-Decision and Order in accordance with the Local Rules of the Northern District of New York.

IT IS SO ORDERED.

Date: September 19, 2012
Syracuse, New York


Honorable Norman A. Mordue
U.S. District Judge